

## **PROPOSED REVISIONS TO THE RULES GOVERNING THE JUDICIAL PERFORMANCE EVALUATION COMMISSION**

The Judicial Performance Evaluation Commission is considering whether to recommend proposed amendments to the Rules Governing the Judicial Performance Evaluation rules for the Supreme Court's consideration. If you would like to comment on the proposed amendments set forth below before they are submitted to the Court for final consideration, you may do so by either submitting a comment electronically through the Supreme Court's web site at <http://nmsupremecourt.nmcourts.gov/> or sending your written comments to:

Kathleen J. Gibson, Clerk  
New Mexico Supreme Court  
P.O. Box 848  
Santa Fe, New Mexico 87504-0848

Your comments must be received on or before January 25, 2010, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's web site for public viewing.

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### **28-202. Judicial proceedings; excusals, recusals and withdrawals.**

A. **Recusal.** A commissioner shall disclose to the commission any professional or personal relationship with a judge that may affect an unbiased evaluation of the judge including any litigation involving the judge and any family or business relationship with the judge.

No attorney shall request that a judge be recused from hearing a case in which an attorney has entered an appearance solely on the basis that the attorney is a present or past member of the commission.

B. **Recusal of judge.** A judge may not file a recusal in a judicial proceeding solely on the basis that an attorney, party or witness appearing in the proceeding is a past or present member of the commission.

C. **Withdrawal.** An attorney who is serving or has served as a member of a commission may not withdraw nor be requested to withdraw from any judicial proceeding solely on the basis that the attorney has served or is serving on the commission, nor should a judge grant an attorney's request to withdraw from a case solely on the basis that an attorney, party, or witness is serving as a commissioner.

D. **Peremptory challenge; disqualification.** Nothing in these rules shall prevent or prohibit[:]

(1) any party or attorney from exercising a peremptory election to excuse a judge pursuant to Rule 1-088.1 NMRA or Rule 5-106 NMRA; or

(2) the disqualification of a judge pursuant to Rule 21-400 NMRA of the Code of Judicial Conduct.

[Approved, effective February 25, 2002; as amended by Supreme Court Order No. \_\_\_\_\_,  
effective \_\_\_\_\_.]

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